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Peter Waxman*

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

KILTER INDUSTRIES, INC.,

Plaintiff,

v.

AVON PRODUCTS, INC. AND PETER
WAXMAN,

Defendants.

ECF CASE

09 CIV 3490 (RJS)

NOTICE OF MOTION

**NOTICE OF MOTION BY DEFENDANTS AVON PRODUCTS, INC. AND
PETER WAXMAN TO DISMISS PLAINTIFF'S FIRST AMENDED
COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)**

PLEASE TAKE NOTICE THAT upon the First Amended Complaint herein, the accompanying Memorandum of Law of Defendants Avon and Waxman, Declarations of Laura Quintano and Roger L. Zissu dated January 8, 2010 and all proceedings heretofore had herein, Defendants Avon Products, Inc. and Peter Waxman ("Defendants"), by and through their undersigned attorneys, shall move this Court, before the Honorable Richard J. Sullivan, United States District Court for the Southern District of New York, located at United States Courthouse, 500 Pearl Street, New York, N.Y. 10007, on February 9, 2010, for the entry of an Order,

pursuant to Fed. R. Civ. P. 12(b)(6), dismissing Plaintiff Kilter Industries, Inc.'s First Amended Complaint in its entirety.

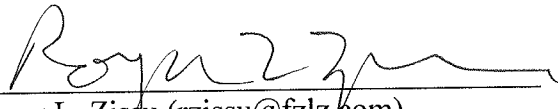
PLEASE TAKE FURTHER NOTICE THAT, in accordance with the Court's Individual Practices, Rule 2 E, oral argument will be on a date and at a time designated by the Court.

Pursuant to Southern District Local Rule 6.1(b) and this Court's Order dated December 11, 2009, Plaintiff's opposition papers are due by January 29, 2010, and Defendants' reply papers are due by February 9, 2010.

Respectfully submitted,

Dated: New York, New York
January 8, 2010

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
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